IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1491 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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ASHOKBHAI MANUBHAI PATEL - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR IH SYED for Applicant(s) : 1,
MR M.R.MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 08/08/2007

ORAL JUDGMENT

1. Rule. Mr.M.R.Mengdey, learned APP waives service of rule on behalf of the respondents. By way of this petition under Article 226 of the

Constitution of India, the petitioner – original informant has prayed for an appropriate order, Writ and/or direction, directing the respondents to register FIR 'Annexure -D' to the petition as according to the petitioner substance of information discloses commission of cognizable offence punishable under Sections 143, 144, 147, 148, 149, 326, 352, 506(2), 114 and 120B of the Indian Penal Code.

2. It is the contention on behalf of the petitioner – original informant that inspite of injunction in the Civil Suit, the petitioner and their family members are dispossessed by the persons named in the said complaint and though the complaint was made to the concerned Police Officer of the concerned Police Station i.e. Police Inspector, Anand (Rural), the same has not been registered as FIR and the same has not been investigated upon; and inspite of the fact that though information discloses commission of cognizable offences under the IPC, the complaint is registered as Non-Cognizable (NC) complaint. Therefore, when the petitioner approached the Superintendent of Police, Anand, he has instructed to the concerned D.S.P., to look into the

same. However, nothing has been done till date, as according to the petitioner the persons who are involved and have committed serious offences are politically influenced persons. It is submitted that by information / complaint dated 04.08.2007, the petitioner has approached D.S.P., Anand (Rural) and requested him to look into the complaint and the complaint is also made to him that FIR is not registered for the cognizable offence by the P.I., Anand (Rural) Police Station.

3. Considering the recent judgment of the Hon'ble Supreme Court in the case of ***Prakash Singh Badal and Anr. V/s. State of Punjab and Ors.*** reported in *(2007) 1 SCC 1* and considering Section 154 of the Criminal Procedure Code, when any information relating to the commission of cognizable offence is given to the Officer in charge of a Police Station, it shall be reduced to writing by him or under his direction, and the substance thereof shall be entered in a book by such officer in such form, and as per Sub-section (3) of Section 154 any person aggrieved by the refusal on the part of the Incharge officer of

the Police Station to record the information referred to in sub-section (1) of Section 154 may send the substance of the information in writing to the Superintendent of Police concerned, who if satisfied that such information discloses commission of cognizable offence, shall either investigate the case himself or direct any Police Officer subordinate to him in the manner provided in the Criminal Procedure Code.

4. In the present case, being aggrieved by the refusal on the part of the P.I., Anand (Rural) Police Station to register FIR for the cognizable offences, the petitioner has already approached the concerned S.P. and D.S.P.(Anand). Under the circumstances, without further entering into merits of the case, when the petitioner has already approached the D.S.P., (Anand) as provided under Sub-section (3) of Section 154 of the Cr.P.C., the D.S.P.(Anand) is directed to look into the information which is furnished by application / complaint dated 04.08.2007 and if he is satisfied that such information discloses commission of cognizable offence, he is directed to exercise powers under Section 154(3) of

the Cr.P.C. Such exercise to be completed within a period of 4(four) weeks from the date of receipt of this order. With these, present petition is disposed of. Rule is made absolute to the aforesaid extent. Direct service is permitted.

[M.R.Shah, J.]

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